

**FOSTER HOME AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad M. Daw**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill amends the definition of "foster home" in the Utah Human Services Code.

**Highlighted Provisions:**

This bill:

- ▶ amends the definition of "foster home."

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**62A-2-101**, as last amended by Laws of Utah 2014, Chapter 240

---

---

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **62A-2-101** is amended to read:

**62A-2-101. Definitions.**

As used in this chapter:

- (1) "Adult day care" means nonresidential care and supervision:
  - (a) for three or more adults for at least four but less than 24 hours a day; and
  - (b) that meets the needs of functionally impaired adults through a comprehensive



28 program that provides a variety of health, social, recreational, and related support services in a  
29 protective setting.

30 (2) (a) "Boarding school" means a private school that:

31 (i) uses a regionally accredited education program;

32 (ii) provides a residence to the school's students:

33 (A) for the purpose of enabling the school's students to attend classes at the school; and

34 (B) as an ancillary service to educating the students at the school;

35 (iii) has the primary purpose of providing the school's students with an education, as

36 defined in Subsection (2)(b)(i); and

37 (iv) (A) does not provide the treatment or services described in Subsection (26)(a); or

38 (B) provides the treatment or services described in Subsection (26)(a) on a limited

39 basis, as described in Subsection (2)(b)(ii).

40 (b) (i) For purposes of Subsection (2)(a)(iii), "education" means a course of study for  
41 one or more of grades kindergarten through 12th grade.

42 (ii) For purposes of Subsection (2)(a)(iv)(B), a private school provides the treatment or  
43 services described in Subsection (26)(a) on a limited basis if:

44 (A) the treatment or services described in Subsection (26)(a) are provided only as an  
45 incidental service to a student; and

46 (B) the school does not:

47 (I) specifically solicit a student for the purpose of providing the treatment or services  
48 described in Subsection (26)(a); or

49 (II) have a primary purpose of providing the services described in Subsection (26)(a).

50 (c) "Boarding school" does not include a therapeutic school.

51 (3) "Child" means a person under 18 years of age.

52 (4) "Child placing" means receiving, accepting, or providing custody or care for any  
53 child, temporarily or permanently, for the purpose of:

54 (a) finding a person to adopt the child;

55 (b) placing the child in a home for adoption; or

56 (c) foster home placement.

57 (5) "Client" means an individual who receives or has received services from a licensee.

58 (6) "Day treatment" means specialized treatment that is provided to:

- 59 (a) a client less than 24 hours a day; and
- 60 (b) four or more persons who:
  - 61 (i) are unrelated to the owner or provider; and
  - 62 (ii) have emotional, psychological, developmental, physical, or behavioral
  - 63 dysfunctions, impairments, or chemical dependencies.
- 64 (7) "Department" means the Department of Human Services.
- 65 (8) "Direct access" means that an individual has, or likely will have, contact with or
- 66 access to a child or vulnerable adult that provides the individual with an opportunity for
- 67 personal communication or touch.
- 68 (9) "Director" means the director of the Office of Licensing.
- 69 (10) "Domestic violence" is as defined in Section [77-36-1](#).
- 70 (11) "Domestic violence treatment program" means a nonresidential program designed
- 71 to provide psychological treatment and educational services to perpetrators and victims of
- 72 domestic violence.
- 73 (12) "Elder adult" means a person 65 years of age or older.
- 74 (13) "Executive director" means the executive director of the department.
- 75 (14) "Foster home" means a temporary residential living environment for the care of:
  - 76 (a) fewer than ~~four~~ five foster children in the home of a licensed ~~or certified~~ foster
  - 77 parent; or
  - 78 (b) ~~four~~ five or more foster children in the home of a licensed ~~or certified~~ foster
  - 79 parent if the foster children are siblings.
- 80 (15) (a) "Human services program" means a:
  - 81 (i) foster home;
  - 82 (ii) therapeutic school;
  - 83 (iii) youth program;
  - 84 (iv) resource family home;
  - 85 (v) recovery residence; or
  - 86 (vi) facility or program that provides:
    - 87 (A) secure treatment;
    - 88 (B) inpatient treatment;
    - 89 (C) residential treatment;

90 (D) residential support;  
91 (E) adult day care;  
92 (F) day treatment;  
93 (G) outpatient treatment;  
94 (H) domestic violence treatment;  
95 (I) child placing services;  
96 (J) social detoxification; or  
97 (K) any other human services that are required by contract with the department to be  
98 licensed with the department.

99 (b) "Human services program" does not include a boarding school.

100 (16) "Licensee" means a person or human services program licensed by the office.

101 (17) "Local government" means a:

102 (a) city; or

103 (b) county.

104 (18) "Minor" has the same meaning as "child."

105 (19) "Office" means the Office of Licensing within the Department of Human Services.

106 (20) "Outpatient treatment" means individual, family, or group therapy or counseling  
107 designed to improve and enhance social or psychological functioning for those whose physical  
108 and emotional status allows them to continue functioning in their usual living environment.

109 (21) (a) "Person associated with the licensee" means a person:

110 (i) affiliated with a licensee as an owner, director, member of the governing body,  
111 employee, agent, provider of care, or volunteer; or

112 (ii) applying to become affiliated with a licensee in any capacity listed under  
113 Subsection (21)(a)(i).

114 (b) Notwithstanding Subsection (21)(a), "person associated with the licensee" does not  
115 include an individual serving on the following bodies unless that individual has direct access to  
116 children or vulnerable adults:

117 (i) a local mental health authority under Section [17-43-301](#);

118 (ii) a local substance abuse authority under Section [17-43-201](#); or

119 (iii) a board of an organization operating under a contract to provide:

120 (A) mental health or substance abuse programs; or

- 121 (B) services for the local mental health authority or substance abuse authority.
- 122 (c) "Person associated with the licensee" does not include a guest or visitor whose
- 123 access to children or vulnerable adults is directly supervised by the licensee at all times.
- 124 (22) "Recovery residence" means a home or facility, other than a residential treatment
- 125 or residential support program, that meets at least two of the following requirements:
- 126 (a) provides a supervised living environment for individuals recovering from a
- 127 substance abuse disorder;
- 128 (b) requires more than half of the individuals in the residence to be recovering from a
- 129 substance abuse disorder;
- 130 (c) provides or arranges for residents to receive services related to their recovery from a
- 131 substance abuse disorder, either on or off site;
- 132 (d) holds the home or facility out as being a recovery residence; or
- 133 (e) (i) receives public funding; or
- 134 (ii) runs the home or facility as a commercial venture for financial gain.
- 135 (23) "Regular business hours" means:
- 136 (a) the hours during which services of any kind are provided to a client; or
- 137 (b) the hours during which a client is present at the facility of a licensee.
- 138 (24) (a) "Residential support" means arranging for or providing the necessities of life
- 139 as a protective service to individuals or families who have a disability or who are experiencing
- 140 a dislocation or emergency that prevents them from providing these services for themselves or
- 141 their families.
- 142 (b) "Residential support" includes providing a supervised living environment for
- 143 persons with dysfunctions or impairments that are:
- 144 (i) emotional;
- 145 (ii) psychological;
- 146 (iii) developmental; or
- 147 (iv) behavioral.
- 148 (c) Treatment is not a necessary component of residential support.
- 149 (d) "Residential support" does not include:
- 150 (i) a recovery residence; or
- 151 (ii) residential services that are performed:

152 (A) exclusively under contract with the Division of Services for People with  
153 Disabilities; or

154 (B) in a facility that serves fewer than four individuals.

155 (25) (a) "Residential treatment" means a 24-hour group living environment for four or  
156 more individuals unrelated to the owner or provider that offers room or board and specialized  
157 treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation  
158 services for persons with emotional, psychological, developmental, or behavioral dysfunctions,  
159 impairments, or chemical dependencies.

160 (b) "Residential treatment" does not include a:

161 (i) boarding school;

162 (ii) foster home; or

163 (iii) recovery residence.

164 (26) "Residential treatment program" means a human services program that provides:

165 (a) residential treatment; or

166 (b) secure treatment.

167 (27) (a) "Secure treatment" means 24-hour specialized residential treatment or care for  
168 persons whose current functioning is such that they cannot live independently or in a less  
169 restrictive environment.

170 (b) "Secure treatment" differs from residential treatment to the extent that it requires  
171 intensive supervision, locked doors, and other security measures that are imposed on residents  
172 with neither their consent nor control.

173 (28) "Social detoxification" means short-term residential services for persons who are  
174 experiencing or have recently experienced drug or alcohol intoxication, that are provided  
175 outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility  
176 Licensing and Inspection Act, and that include:

177 (a) room and board for persons who are unrelated to the owner or manager of the  
178 facility;

179 (b) specialized rehabilitation to acquire sobriety; and

180 (c) aftercare services.

181 (29) "Substance abuse treatment program" means a program:

182 (a) designed to provide:

- 183 (i) specialized drug or alcohol treatment;
- 184 (ii) rehabilitation; or
- 185 (iii) habilitation services; and

186 (b) that provides the treatment or services described in Subsection (29)(a) to persons

187 with:

- 188 (i) a diagnosed substance abuse disorder; or
- 189 (ii) chemical dependency disorder.

190 (30) "Therapeutic school" means a residential group living facility:

191 (a) for four or more individuals that are not related to:

- 192 (i) the owner of the facility; or
- 193 (ii) the primary service provider of the facility;

194 (b) that serves students who have a history of failing to function:

- 195 (i) at home;
- 196 (ii) in a public school; or
- 197 (iii) in a nonresidential private school; and

198 (c) that offers:

- 199 (i) room and board; and
- 200 (ii) an academic education integrated with:
  - 201 (A) specialized structure and supervision; or
  - 202 (B) services or treatment related to:
    - 203 (I) a disability;
    - 204 (II) emotional development;
    - 205 (III) behavioral development;
    - 206 (IV) familial development; or
    - 207 (V) social development.

208 (31) "Unrelated persons" means persons other than parents, legal guardians,  
209 grandparents, brothers, sisters, uncles, or aunts.

210 (32) "Vulnerable adult" means an elder adult or an adult who has a temporary or  
211 permanent mental or physical impairment that substantially affects the person's ability to:

- 212 (a) provide personal protection;
- 213 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

- 214 (c) obtain services necessary for health, safety, or welfare;
- 215 (d) carry out the activities of daily living;
- 216 (e) manage the adult's own resources; or
- 217 (f) comprehend the nature and consequences of remaining in a situation of abuse,
- 218 neglect, or exploitation.

219 (33) (a) "Youth program" means a nonresidential program designed to provide  
220 behavioral, substance abuse, or mental health services to minors that:

- 221 (i) serves adjudicated or nonadjudicated youth;
- 222 (ii) charges a fee for its services;
- 223 (iii) may or may not provide host homes or other arrangements for overnight  
224 accommodation of the youth;
- 225 (iv) may or may not provide all or part of its services in the outdoors;
- 226 (v) may or may not limit or censor access to parents or guardians; and
- 227 (vi) prohibits or restricts a minor's ability to leave the program at any time of the  
228 minor's own free will.

229 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl  
230 Scouts, 4-H, and other such organizations.

---

**Legislative Review Note**  
**as of 1-16-15 3:44 PM**

**Office of Legislative Research and General Counsel**